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COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLES 16 AND 17 OF THE COVENANT

Concluding observations of the Committee on Economic, Social and Cultural Rights

AUSTRIA

1. At its 39th, 40th and 41st meetings, held on 28 and 29 November 1994, the Committee considered the second periodic report of Austria concerning the rights covered by articles 6 to 9 and 13 to 15 of the Covenant (E/1990/6/Add.5), together with the written replies to the supplementary questions raised by the pre-sessional Working Group, and approved* the following observations.

A. Introduction

2. The Committee expresses its satisfaction to the State party at the detailed report submitted and the supplementary information that it provided in writing, and also at the constructive dialogue conducted between its members and the Austrian delegation.

3. The Committee greatly appreciates the Austrian delegation's frank, detailed replies to all its questions, which enabled it to gain an overall idea of the way in which Austria is discharging its obligations under the International Covenant on Economic, Social and Cultural Rights.

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* At its 52nd meeting (eleventh session), held 7 December 1994.

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B. Positive aspects

4. The Committee welcomes the efforts made by the Austrian Government to create the conditions necessary for the exercise of the rights recognized under the Covenant. It notes with satisfaction the adoption of legislative measures guaranteeing non-discrimination against women, in particular Act No. 833/1992 amending the Equal Treatment Act of 1979, which addresses the problem of sex-based discrimination in the workplace, and the Federal Act on the Equal Treatment of Women and Men and the Advancement of Women in the Federal Service of 1993, as amended in 1994, which guarantees equal treatment for women and men employed by the federal Administration. The Committee notes the establishment, at the federal level, of the Equal Treatment Commission and the creation of the post of Equal Treatment Advocate.

5. The Committee takes note of the efforts made by the Austrian Government, notably in the field of education, to integrate foreign workers and their families. The Committee also notes the establishment of a fund for the integration of migrants, and also the measures taken to combat xenophobia and promote tolerance.

6. The Committee takes note of initiatives aimed at combating unemployment and the adverse effects of the restructuring of large companies, in particular the establishment of labour foundations.

7. The Committee expresses its satisfaction at the range and quality of the services provided to the population as a whole, and notably social benefits for elderly persons and the disabled.

8. The Committee notes with interest the efforts made in the field of vocational training and the wide spectrum of educational opportunities available after compulsory education has been completed. It takes note of the scope of the continuing education system, which enables adults steadily to expand their knowledge.

9. The Committee notes with satisfaction the various measures taken by the State party to ensure the protection of the various ethnic minorities and to guarantee them both the right to be educated in their mother tongue and the right to preserve and maintain their cultural identity. In this regard, the Committee welcomes the recognition of the Rom minority as a national minority, and notes with satisfaction the allocation of subsidies for the promotion of the cultural activities of minorities, and the establishment within the Federal Chancellery of Advisory Boards on Ethnic Minorities.

C. Principal subjects of concern

10. The Committee notes that the provisions of the universal human rights instruments, the Covenant among them, cannot be directly invoked before the Austrian courts, unlike the European Convention for the Protection of Human Rights and Fundamental Freedoms, which has been incorporated into domestic legislation and has the force of constitutional law. Although the Austrian delegation has stated that its national legislation is consistent with the provisions of the Covenant, the Committee nevertheless expresses its concern

that, in the event of a conflict between the provisions of the Covenant and those of domestic legislation, the international obligations entered into under the Covenant may not be fulfilled.

11. The Committee is concerned about the possible adverse consequences, for the implementation of the provisions of the Covenant concerning non-discrimination, of the regulations relating to the new law on residence and residence permits, whose purpose is to limit the number of foreigners authorized to work in Austria, and the conditions laid down - particularly in the area of housing - for the acquisition of an Austrian residence permit.

12. The Committee points out that the ILO Committee of Experts on the Application of Conventions and Recommendations, in its 1994 report to the International Labour Conference, expressed its concern at the persistence of inequalities in the remuneration of women as compared with men, especially in the private sector. In this context, the Committee notes that, despite the considerable legislative efforts made by the State party to ensure equality between the sexes, inequality persists in practice, particularly in the matter of promotion, and sometimes in the provision of social benefits.

13. The Committee observes that standards for the protection of workers concerning limits on the duration of the working day and weekly rest are not always fully met because some areas of the private sector are dilatory in enforcing the relevant legislation.

14. The Committee is also concerned that workers in small businesses (with five or fewer employees) seem not to enjoy adequate protection against the threat of dismissal or termination on the grounds of trade union activities. Similarly, the Committee considers that the representation of workers on works councils is not sufficient to ensure a balance of interests.

D. Suggestions and recommendations

15. The Committee recommends that the State party should envisage taking the measures necessary to place on an equal footing the international human rights instruments, in particular the Covenant, and the European Convention for the Protection of Human Rights and Fundamental Freedoms as regards the place they occupy in the domestic legal order.

16. The Committee recommends that the Austrian authorities should continue their efforts to ensure de facto equality between men and women, especially in the areas of access to employment, remuneration for equal work, working conditions, the right to social security and participation in higher education.

17. The Committee recommends that the Austrian Government should take the necessary measures to ensure that the implementation of the new immigration and residence laws will not impede the exercise, by non-nationals, of the rights set out in the Covenant.

18. The Committee urges the State party to monitor carefully the possible effects of unemployment and reduced social welfare services on the realization

of economic, social and cultural rights, in particular for the most vulnerable groups in society, and to take the necessary measures to mitigate their adverse repercussions.

19. Taking account of the observations made by the ILO Committee of Experts on the Application of Conventions and Recommendations, in its 1994 report, concerning work done by detainees within prisons for private businesses, the Committee endorses the recommendations addressed to the Government of Austria encouraging it to take measures to improve the level of remuneration and social welfare of such detainees.

20. The Committee recommends that the State party should continue its efforts to ensure the exercise of all the rights recognized in article 8 of the Covenant, in particular for workers employed in small businesses.

21. The Committee deems it essential that the State party should maintain a dialogue with civil society in the preparation of reports to the Committee and should disseminate them as widely as possible.